

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JAFET CHAVEZ,

Petitioner,

vs.

ANTHONY SCILLIA, *et al.*,

Respondents.

2:10-cv-0234-RCJ-LRL

**ORDER**

Petitioner moves for leave to proceed in *forma pauperis* and for the appointment of counsel.

Petitioner is incarcerated at the High Desert State Prison for a significant term on a guilty plea and conviction for robbery with a deadly weapon and attempted murder with a deadly weapon. In his petition for writ of habeas corpus, Petitioner raises two claims, one alleging a violation of the prohibition on cruel and unusual punishment and one alleging a violation of his right to due process and equal protection. The petition presents a coherent and comprehensive document. There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also*

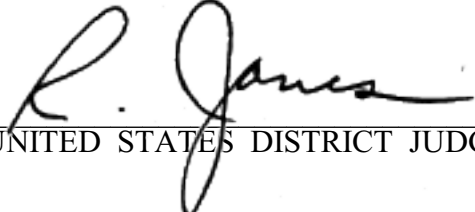
1 *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The claims in this case are not especially complex.  
2 Also, the court notes from the petition and from the other documents that petitioner has submitted to the  
3 Court that petitioner is able to present matters to the Court in an organized and understandable manner.  
4 Petitioner's motion shall be denied.

5 Petitioner has already paid the required filing fee and his financial statements demonstrate that  
6 he does not qualify for leave to proceed in *forma pauperis*. His motion shall be denied.

7 **IT IS THEREFORE ORDERED** that petitioners motion for leave to proceed in *forma pauperis*  
8 (docket #9) is **DENIED**.

9 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel (docket #10)  
10 is **DENIED**.

11 Dated **this 30th day of April, 2010.**

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14 UNITED STATES DISTRICT JUDGE  
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